

**CALENDAR ITEM
C55**

A 17

02/20/15

PRC 6414.9

S 11

A. Franzoia

**CONSIDER A MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF
PARKS AND RECREATION AND LITERACY FOR ENVIRONMENTAL JUSTICE, A
NON-PROFIT ENTITY, TO IMPLEMENT AN URBAN GREENING GRANT FROM THE
CALIFORNIA NATURAL RESOURCES AGENCY, CANDLESTICK POINT STATE
RECREATION AREA, CITY/COUNTY OF SAN FRANCISCO**

PARTIES:

California Department of Parks and Recreation

Literacy for Environmental Justice

California State Lands Commission

BACKGROUND

In 1984, the City of San Francisco deeded certain property within the Candlestick Point State Recreation Area (Candlestick Point), located in the City and County of San Francisco, to the California Department of Parks and Recreation (State Parks) and the California State Lands Commission (Commission). The Commission took title to sovereign lands within Candlestick Point and subsequently leased those lands to State Parks for park purposes.

As part of the Hunters Point Shipyard/Candlestick Point Title Settlement and Land Exchange Agreement authorized by the Commission on April 6, 2011, sovereign land within Candlestick Point was consolidated along the waterfront and a lease to State Parks for 66 years for the new configuration was authorized. Lease No. PRC 6414.9 allows for open space and recreational uses, including but not limited to, hiking, jogging and bicycle trails, group picnic areas, wind surfing facilities, boating center, piers, sand beach, quiet areas, boat access facilities, concessions, and service areas.

On January 18, 2013, the California State Park and Recreation Commission approved the Candlestick Point State Recreation Area General Plan and Program Environmental Impact Report. The plan will guide future development and management of the Candlestick Point State Recreation Area for public use and resource protection. State Parks is currently in the planning and design process for the first section of Candlestick

CALENDAR ITEM NO. **C55** (CONT'D)

Point located at "The Point," a peninsula of land extending easterly into the bay (referred to as "Site B" in the General Plan).

PROPOSED MEMORANDUM OF UNDERSTANDING

The purpose of the proposed Memorandum of Understanding between State Parks, Literacy for Environmental Justice (LEJ) and the Commission is to facilitate the release of grant funding for an urban greening project to continue with the design and environmental review of proposed improvements at Candlestick Point. LEJ received an Urban Greening Project Grant from the California Natural Resources Agency (under authority of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006-Proposition 84) in the amount of \$985,164 for the Candlestick Point State Recreation Area Healthy Habitats and Lifestyle Project. State Parks and LEJ are proposing to use a portion of the grant funding for the design and planning of five educational stations, 2,600 linear feet of accessible trail, seven campsites with water and electricity, and 44,000 square feet with propagated seed/plantings which will partially be located on sovereign lands that are leased to State Parks.

As part of the proposed Memorandum of Understanding, the Commission acknowledges that State Parks has future plans to sublease a portion of Lease No. PRC 6414.9 to LEJ for a period of 20 years to improve and restore "The Point" consistent with 2013 General Plan and Program Environmental Impact Report. Additional environmental review by State Parks and a lease amendment authorized by the Commission will be required before any construction can begin. In order for the grant funding to be released to pay for the planning and design, the Memorandum of Understanding must be authorized and executed by the Commission. It is anticipated that State Parks and LEJ will enter into subsequent agreements to address the following: review of the conceptual and final design documents; public works improvements; contracting process; project management; construction management; inspections; LEJ volunteer services; environmental review; and permitting.

OTHER PERTINENT INFORMATION:

1. Candlestick Point State Recreation Area was historically part of the tidal marshes and mudflats of San Francisco Bay. Development in the area began in the 1850s and since the late 1800s much of the area has been gradually filled in.
2. In 1968, the Legislature granted certain sovereign lands within Candlestick Point to the City and County of San Francisco, acting through the Port Commission.
3. Lease No. PRC 6414.9 originally began in the 1980s when the Commission obtained title for the sovereign lands within the Candlestick

CALENDAR ITEM NO. **C55** (CONT'D)

State Recreation Area from the City and County of San Francisco. The new Lease No. PRC 6414.9 was executed on July 17, 2014, and was recorded as part of the initial closing phase of the Hunters Point Shipyard/Candlestick Point Title Settlement and Land Exchange Agreement on July 30, 2014.

4. The staff recommends that the Commission find that the subject Memorandum of Understanding approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

EXHIBIT:

- A. Memorandum of Understanding

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject Memorandum of Understanding approval is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Approve and authorize the execution, by the Executive Officer, of the Memorandum of Understanding on behalf of the Commission in substantially the form of the copy of such Memorandum of Understanding on file with the Commission.

EXHIBIT A

Memorandum of Understanding for Purposes of Implementing Urban Greening for Sustainable Communities Grant Program

Candlestick Point State Recreation Area Site B

This Memorandum of Understanding ("MOU") is entered into by the State of California, Department of Parks and Recreation ("DPR"), the California State Lands Commission ("SLC") and Literacy for Environmental Justice ("LEJ"), a non-profit organization, for purposes of fulfilling long-term tenure requirements for Candlestick Point Recreation Area.

RECITALS

- A. On October 26, 2013, LEJ filed an application with the Urban Greening for Sustainable Communities Grant Program Round 3 Candlestick Point State Recreation Area Healthy Habitats and Lifestyle Project funded by the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006. The California Natural Resources Agency ("Resources Agency") approved and awarded the Grant to LEJ for its proposed project. As a condition of the grant, LEJ will enter into a Grant Agreement ("Grant Agreement") with the Resources Agency. A copy of the proposed Grant Agreement is attached and incorporated hereto as Exhibit A.
- B. LEJ's proposed project is to be located on a portion of property owned by SLC and leased to DPR for a term of 66 years. The property is in Candlestick Point State Recreation Area in the City and County of San Francisco encompassing the Bay shoreline and near shore areas. The project area is located at "The Point," a peninsula of land extending easterly into the bay. The project area is referred to as "Site B." A map and photo are attached and incorporated hereto as Exhibit B and Exhibit C.
- C. LEJ's proposed project will restore approximately one acre of native plant coastal sage scrub habitat, construct an approximately ½ mile interpretive trail with signage and construct five to seven walk-in and bike-in only campsites. A diagram of the improvements is attached and incorporated herein as Exhibit D. For purposes of this MOU, LEJ's proposed project will be referred to as "the Project."
- D. The Grant Agreement requires that LEJ provide evidence of adequate Land Tenure/Site Control for all land included in the project, consisting of a fully executed use agreement, no later than September 15, 2015.

- E. DPR will benefit from the Project improvements, and the LEJ's goals and purposes are furthered by Project implementation. In consideration of these mutual benefits, DPR, SLC, and LEJ hereby enter into this MOU.

DPR, SLC, and LEJ agree as follows, in order to carry out the requirements of the Grant Agreement:

1. **Responsibility of LEJ.** LEJ assumes all duties and responsibilities of the Grantee under the Grant Program, including oversight of the Project; accounting for all costs of Grantee and subcontractors; audit preparation and reporting; invoicing for project costs; and coordination and communication with the Resources Agency as necessary for implementation and operation of the Project.
2. **Access by LEJ.** LEJ shall have unlimited access to the Property to implement the Project and to accomplish the purposes of the Grant Agreement. Upon reasonable notice, Resources Agency shall have access to the Property for monitoring and inspection. Furthermore, DPR and LEJ shall enter into a subsequent agreement that will address review of the conceptual and final design documents, public works improvements, contracting process, project management, construction management, inspections, LEJ volunteer services, environmental review, and the State of California permit review process which are necessary to construct the Project.
3. **Use of the Property.** For purposes of implementation of the Project and to satisfy the requirements of the Grant Agreement for a period of twenty (20) years from the Project completion date, DPR shall enter a sublease with LEJ for the construction, maintenance, use, and management of the Property. For purposes of this MOU, the Project completion date refers to the date when the Resources Agency has accepted the Project as complete. In the event that LEJ is unable to operate and maintain the Project as required by the Grant Agreement, DPR agrees to operate and maintain the Project in accordance with the terms of the Grant Agreement.

As a provision of the Grant, environmental review (California Environmental Act [CEQA] compliance) and permitting of the Project will be required before any construction can begin. Once environmental review has been completed, SLC acknowledges that DPR intends to amend their lease to include a sublease with LEJ for a term of 20 years which shall not be unreasonably withheld.

4. **Public Access.** Once the Property is deemed safe for public occupancy and a Notice of Final Completion is prepared, DPR and LEJ shall provide, subject to health and safety issues and fiscal constraints, public access to the Property for a period of twenty (20) years from the start date of the Grant Agreement. DPR also reserves the right to enforce at all times such rules and regulations regarding public access to, and use of, the Property as are necessary to protect the public's health and safety and the public's investment in the Property.
5. **Successors in Interest.** The terms of this MOU shall be binding on all successors and assigns of the parties to this MOU. Neither DPR nor the LEJ may assign its rights and obligations under this MOU without the prior written consent of the Resources Agency.
6. **Severability.** If any of the provisions of this MOU are found by a court of law to be of no force or effect, the validity of all other provisions shall be unaffected.
7. **Counterparts.** This MOU may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same original.
8. **Effective Date.** The effective date of this MOU is the date of last party to have signed.
9. **Duration of Agreement.** In accordance with the criteria established by the Grant Program, this MOU is to be in effect for the time period described in Section 3 of this MOU.
10. **Contract Remedies.** It is the intent of the parties that this MOU is an enforceable contract, with all contract remedies in law and equity, including specific performance, available to the parties. Resources Agency, as the grantor that will benefit from satisfaction of the Grant Agreement requirements and successful implementation of the Project, is a third party beneficiary with the independent right to enforce the provisions of this MOU.
11. **Venue.** All proceedings concerning the validity and operation of this MOU and the performance of the obligations of the parties hereunder shall be held in San Francisco County, California.
12. **Authority.** By executing this MOU, each signatory represents that it has full authority to bind DPR, SLC, and LEJ, respectively. Furthermore, DPR represents that it has the authority to enter into this MOU as does SLC, and LEJ represents that it has the authority to enter into this MOU.
13. **Amendment.** No amendments or modifications of this MOU are effective unless in writing signed by the parties hereto and approved by Resources Agency.

LITERACY FOR ENVIRONMENTAL JUSTICE

Patrick Marley Rump, Executive Director

Date

STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION

Danita Rodriguez, District Superintendent
Bay Area District

Date

CALIFORNIA STATE LANDS COMMISSION, A California public benefit corporation

Jennifer Lucchesi, Executive Officer
California State Lands Commission

Date